



South Carolina House of Representatives

Legislative Update

James H. "Jay" Lucas, Speaker of the House

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CONTENTS

HOUSE WEEK IN REVIEW	02
HOUSE COMMITTEE ACTION	04
BILLS INTRODUCED IN THE HOUSE THIS WEEK	06

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HOUSE WEEK IN REVIEW

The House of Representatives concurred in Senate amendments to **H.3145**, a bill **SHIELDING FROM LEGAL LIABILITY THOSE WHO TAKE ACTIONS TO PREVENT HOT CAR DEATHS** of children and vulnerable adults who are left unattended in locked motor vehicles, and enrolled the legislation for ratification. The legislation provides that a person is immune from civil liability for property damage resulting from his forcible entry into a motor vehicle for the purpose of removing a minor or vulnerable adult from the vehicle if the person has a reasonable good faith belief that forcible entry into the vehicle is necessary because the minor or vulnerable adult is in imminent danger of suffering harm.

The House and Senate adopted the free conference report on **S.255** and enrolled the legislation for ratification. The legislation establishes new provisions **TARGETING MUGSHOT PUBLICATION EXTORTION PRACTICES** where individuals issue publications of booking photographs and other booking records of those arrested in South Carolina or post these records on websites and require payment in order for those records to be removed or revised. A misdemeanor criminal penalty, carrying a maximum fine of one thousand dollars and/or imprisonment for up to sixty days, is provided for those who engage in the extortion and a civil cause of action is established for those harmed by such practices. The legislation revises provisions for the **EXPUNGEMENT OF CRIMINAL RECORDS** when charges have been dismissed or the accused individual is found not guilty. The legislation revises the protocol governing how and when records should be retained or destroyed following orders of expungement. Revisions and clarifications are included to better allow individuals to avail themselves of expungement provisions. The legislation provides that if a person pleads guilty to a lesser-included offense and the solicitor deems it appropriate, the solicitor shall notify the State Law Enforcement Division (SLED) and SLED shall request that the person's record contained in the National Crime Information Center (NCIC) database or other similar database reflects the lesser-included offense rather than the offense originally charged.

The House concurred in Senate amendment to **H.3874**, a bill providing for **RENEWABLE ENERGY INCOME TAX CREDITS**, and enrolled the legislation for ratification. The legislation makes provisions for an income tax credit for a taxpayer who constructs, purchases, or leases and places into service large-scale nonresidential solar energy equipment located on property in South Carolina that is included on the Environmental Protection Agency's National Priority List, National Priority List Equivalent Sites, or on a list of related removal actions, as certified by the Department of Health and Environmental Control. The income tax credit covers twenty-five percent of the cost, including the cost of installation, of the property up to a cap of \$2.5 million for each installation of solar energy property. A sunset provision is included so that new credits will only be allowed through 2017. The legislation also expands the renewable energy tax credit geared towards residential customers that allows an income tax credit to address a portion of the cost of purchasing and installing solar energy systems or small hydropower systems so that this tax credit also applies to geothermal machinery and equipment. A sunset provision is included so that these income tax credits for geothermal machinery and equipment will only be available through 2018.

The House amended, approved, and sent the Senate **H.4579**, a bill to implement in statute changes authorized with the adoption of the amendment to the South Carolina Constitution which provides for the **JOINT ELECTION OF THE GOVERNOR AND LIEUTENANT GOVERNOR** and related matters beginning with the general election of 2018. Under the revised system, a gubernatorial candidate selects a running mate for the post of Lieutenant Governor in a manner comparable to the selection of the President and Vice President at the federal level. The Lieutenant Governor's legislative duties are eliminated in statute, and provisions are made for the office of the President of the Senate who is elected by the Senate from its membership to preside over the legislative body and perform other prescribed duties. Beginning with the Lieutenant Governor elected in the 2018 General Election, in the case of the removal of the Lieutenant Governor from office by impeachment, death, resignation, disqualification, disability, or removal from the State, the Governor shall appoint, with the advice and consent of the Senate, a successor to fulfill the unexpired term. The legislation revises the order of succession for filling unexpected vacancies that occur in the state's executive branch.

The House approved and sent the Senate **H.4665**, a bill that makes provisions for the **SCREENING OF MAGISTRATE CANDIDATES** by the Judicial Merit Selection Commission to ensure that the candidates meet the qualifications for the office. Under the provisions, the commission submits its reports and recommendations on magistrate candidates to the appropriate Senate delegation and the Senate delegation, with the advice and consent of the Senate, in turn submits the name of the magistrate candidate of choice for appointment by the Governor. A person found not qualified by the Judicial Merit Selection Commission may not be submitted to the Governor for appointment.

The House approved and sent the Senate **H.4703**, a bill revising the state's provisions for immunity from criminal prosecution and civil actions for the **JUSTIFIABLE USE OF DEADLY FORCE AGAINST INTRUDERS**. The legislation establishes a procedure for an evidentiary hearing on a pretrial motion to dismiss based on the justifiable use of deadly force and makes provisions for a court judgment, order, or decree denying legal immunity to be immediately appealable.

The House approved and sent the Senate **H.3521**, a bill **PROHIBITING AN APPLICATION OF SECULAR OR RELIGIOUS FOREIGN LAW THAT VIOLATES RIGHTS GUARANTEED BY THE CONSTITUTION OF THIS STATE OR OF THE UNITED STATES**, such as due process, freedom of religion, speech, or press, and privacy rights. This prohibition applies to any ruling or decision of a court, arbitration, tribunal, or administrative agency. The legislation includes provisions specifying that this prohibition does not apply to purely ecclesiastical matters and should not be not be interpreted by any court to conflict with any federal treaty or other international agreement to which the United States is a party to the extent that such treaty or international agreement preempts or is superior to state law on the matter at issue.

The House approved and sent the Senate **H.4816**, a bill designating June 27th of each year as **SOUTH CAROLINA POST-TRAUMATIC STRESS INJURY (PTSI) AWARENESS DAY**.

The House approved and sent the Senate **H.4709**, revising fishing limitations imposed in the **SOUTHERN COBIA MANAGEMENT ZONE** which encompasses all waters of this

state south of Jeremy Inlet, Edisto Island. The legislation provides that, subject to the size limit established by federal regulation, possession of cobia caught in the Southern Cobia Management Zone is limited to one person per day, and no more than three per boat per day, from June 1 to April 30. It is unlawful to take and possess cobia in the Southern Cobia Management Zone from May 1 to May 31, and at any time federal regulations provide for the closure of the recreational cobia season in the waters of the South Atlantic Ocean.

The House amended, approved, and sent the Senate **H.4708**, a bill revising provisions dealing with importing, possessing or selling imported fish, to clarify language in current law that the South Carolina Department of Natural Resources will continue to issue permits for the importation, breeding, and possession of **GRASS CARP** or grass carp hybrids.

HOUSE COMMITTEE ACTION

EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee met on Wednesday, February 3, 2016. The following bills were discussed and passed.

The committee gave a favorable recommendation to **H.3420**, relating to **VETERANS AND HIGH SCHOOL DIPLOMAS**, adding veterans of the eras encompassing the Korean War and the Vietnam War to those who must be issued a high school diploma upon presentation of documentation of school enrollment and a copy of an honorable discharge or honorable discharge papers (DD-214) to the South Carolina Department of Education.

The committee gave a favorable recommendation to **H.3657**, relating to **SCHOOL BOARD TRUSTEE TERMS**, adding the phrase "Except as otherwise provided by law" to current law providing that the term of office of every elected trustee of a school district must commence one week following the certification of his election.

The committee gave a favorable recommendation (with amendment) to **H.4515**, relating to **IN-STATE TUITION REGARDING FEDERAL EDUCATIONAL ASSISTANCE**. The bill relates to undergraduate in-state tuition for people entitled to certain federal educational assistance as the children of members of the United States military who died in active duty service after September 11, 2001, and for people entitled as the spouses or children dependents of veterans to receive certain unused federal educational assistance transferred from veterans, so as to provide they are not subject to a three-year post-discharge enrollment time limit.

The committee gave a favorable recommendation to **H.4639**, relating to **EDUCATIONAL INTERSTATE RECIPROCITY**. The bill provides that the Commission on Higher Education may enter interstate reciprocity agreements that authorize accredited

degree-granting institutions of higher education in South Carolina to offer postsecondary distance education.

The committee gave a favorable recommendation (with amendment) to **H.4688**, relating to **UNLAWFUL REPOSITIONING OF TRAFFIC CONTROL DEVICES AND RAILROAD SIGNS AND SIGNALS**. This bill adds “temporary” road closure signs and devices (and the repositioning thereof) to current law regarding unlawful interference with traffic control devices and railroad signs and signals.

JUDICIARY

The House Judiciary Committee met February 2, 2016 and passed out three bills:

H.4703 USE OF DEADLY FORCE. This bill provides for pre-trial motions to dismiss criminal charges when Defendants have justifiably used deadly force. The State bears the burden of proving, by a preponderance of the evidence, that the deadly force used was unlawful. While the findings during this hearing are not binding, any court judgment, order, or decree that denies any defendant immunity is immediately appealable to a higher court.

H.3041 APPOINTMENT OF THE SUPERINTENDENT OF EDUCATION. This bill requires the Superintendent of Education to be appointed by the Governor, with the advice and consent of the Senate. The term of office is four years. This provision will be effective at the end of the term of the current Superintendent of Education. The General Assembly will set the duties, compensation, qualifications, and procedures for this office, as well as the procedures to remove the Superintendent.

H.3685 ELECTRONIC TICKETING, reported out, with amendments. This bill requires electronic forwarding of court-processed tickets and license surrender information. With this forwarded information, the term of a driver’s license suspension or revocation will begin the date the license was surrendered, not the date the ticket is court-processed. When a license holder requests an administrative hearing, and if that hearing results in the continued suspension, cancellation, or revocation of a driver’s license, then the suspension term will begin on the administrative hearing date. This bill also requires electronic transmission of all tickets by a court clerk or magistrate to the Department of Motor Vehicles within five [5] days. Sets penalties for losing tickets, using nonuniform tickets, or failing to timely forward electronic ticket records to the Department of Motor Vehicles.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The Medical, Military, Public and Municipal Affairs Committee met on Tuesday, February 2, 2016, and reported out one bill.

The full committee gave a favorable report on **H.4447**, a bill authorizing the State Barber Board to issue permits for **MOBILE BARBERSHOPS**. The bill defines “mobile barbershop” as a self-contained unit where the practice of barbering is conducted. The unit can be moved, towed, or transported from one location to another and includes

equipment used for barbering on a temporary basis, including but not limited to a client's home, a nursing home, or another institution or location authorized by the board. A licensed barber may operate a mobile barbershop if the barber does not have a physically stationary office at the location where the barbering services are being provided.

To operate a mobile barbershop the barber must, among many things, submit a permit application and fee to the barber board; have the mobile barbershop inspected by a board member; affix barber permit for current year on mobile barbershop; and carry an issued permit card when practicing barbering through a portable barber operation.

The bill also outlines that a mobile barbershop permit is not transferable and if sold and the new owner must apply to the board for a permit before providing barbering services.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

H.4826 *USING WILD TURKEY FEATHERS IN ART* Rep. Ryhal

This bill allows any American Indian artist who is in compliance with applicable federal and state law to sell crafts based upon the use of waste parts of certain game animals if the artist possesses an identification card that proves that he/she is in compliance.

H.4839 *CARTILAGINOUS FISH/HAMMERHEAD SHARK* Rep. Goldfinch

No person shall intentionally, knowingly, recklessly, or with criminal negligence fail to salvage for bait or human consumption all skeletal muscular tissue of a cartilaginous fish, originating from the posterior side of the last gill slit to the pre-caudal region, which would be reasonably expected to be harvested from a filet. "Cartilaginous fish" means all members of the subclass Elasmobranchii, including, sharks, skates, stingrays, and their products, eggs, or by-products not intended for human consumption. The bill provides for penalties.

The bill also outlines that it is unlawful to take or possess a great hammerhead shark (*Sphyrna mokarran*), a smooth hammerhead shark (*Sphyrna zygaena*), a scalloped hammerhead shark (*Sphyrna lewini*), or a Carolina hammerhead shark (*Sphyrna gilberti*). Any of the aforementioned species caught must be released immediately and must remain completely in the water at all times while being released. No person shall be permitted to take any photographs with the animal outside of the water.

H.4847 *FERAL SWINE HOLDING FACILITIES/FERAL SWINE DEALERS* Rep. Limehouse

The bill outlines that the Department of Natural Resources may issue licenses to persons who wish to operate feral swine holding facilities or become feral swine dealers. In addition, the operator of a feral swine holding facility or a feral swine dealer may hold

feral swine on private property if facilities are maintained in a clean and sanitary condition at all times; maintained in a condition that prevents the escape of captured swine; not located close to domestic swine herds; and designed to hold only feral swine.

EDUCATION AND PUBLIC WORKS

H.4795 PALMETTO FELLOWS SCHOLARSHIP PROGRAM Rep. Norrell

This bill provides that students eligible for the Palmetto Fellows Scholarship award may elect to defer enrollment to specified times.

H.4796 UNITED STATES SUBMARINE VETERANS Rep. Rivers

This bill provides that the Department of Motor Vehicles may issue "United States Submarine Veterans, Inc." special license plates.

H.4822 DEFINITION OF HANDS-FREE WIRELESS COMMUNICATION DEVICE

Rep. Norrell

This bill provides that the term "hands-free wireless communication device" means a device that does not require the use of either hand to activate or deactivate an internal feature or function of the device, and to provide that the operator of a motor vehicle may use a hands-free wireless electronic communication device in voice-activated mode only.

H.4833 "HIGHER EDUCATION GOVERNANCE ACT" Rep. Taylor

This bill enacts the "South Carolina Higher Education Governance Act" so as to revise miscellaneous provisions concerning the commission and higher education governance.

H.4842 CELEBRATE SOUTH CAROLINA 350 COMMISSION ACT

Rep. Limehouse

This bill enacts the "Celebrate South Carolina 350 Commission Act", to provide for the creation of a state commission created with the intent of planning the commemoration and celebration of this historic milestone, to provide the membership for the commission, and to provide for the dissolution of the commission on May 1, 2020.

JUDICIARY

H. 4798 SIMPLE POSSESSION OF MARIJUANA FOR PTSD-SUFFERING VETERANS

Rep. Rutherford

Legalizes possession of less than an ounce of marijuana or hashish by honorably discharged members of the military who have been diagnosed with post-traumatic stress disorder due to duty in a combat area.

H. 4799 SENTENCE REDUCTIONS FOR INFORMANTS Rep. Rutherford

The Attorney General can seek sentence reductions for defendants who have substantially assisted the State in other prosecutions.

H. 4820 NATIVE AMERICAN INDIAN GROUPS Rep. Ryhal

Continues recognition of existing Native American groups, but requires the Commission for Minority Affairs to cease recognizing any additional Native American groups after the effective date of this legislation. Directs the Commission to revise regulations for current Native American groups to conform to this new law.

H. 4827 POWER OF ATTORNEY Rep. J. E. Smith

Enacts an updated South Carolina Uniform Power of Attorney Act and Statutory Health Care Power of Attorney Act. Provides details and specifications for the language, use, and signing of these documents.

H. 4828 SCHOOL HOUSE TO JAIL HOUSE Rep. Robinson-Simpson

Creates a study committee to review juvenile justice laws, zero-tolerance policies, and any practice of prosecuting students for nonserious offenses committed in public schools. This committee would make a report of alternatives to committing juvenile offenders into the juvenile justice system. It would also recommend restorative justice methods that could be used for South Carolina juvenile offenders. Their report would have to be provided to the General Assembly by February 1, 2017.

H. 4829 POINTING A LASER DEVICE Rep. Ott

Prohibits an individual from intentionally pointing a laser device at a motor vehicle driver, and sets up a step-system of increasing penalties for doing so.

H. 4831 PROSTITUTION Rep. Hicks

Increases the penalties for soliciting for prostitution, operating a house of prostitution, inducing any person to participate in prostitution, or soliciting a prostitute with a mental disability. Establishes an affirmative defense to these charges for victims of human trafficking.

H. 4834 LOCAL GOVERNMENT ANNEXATION EFFICIENCY ACT Rep.

Tinkler

Authorizes cities to annex an area, if it is under twenty-five acres and is completely surrounded by the city limits. Notice of the annexation must be given at a public hearing, and contain specified information listed in this bill.

H. 4835 SUPPORTING AND STRENGTHENING FAMILIES ACT Rep.

Erickson

Allows a parent or person with legal custody of a child to delegate parental or legal custodian powers of the child to another adult via a temporary power of attorney. It can be effective for up to one year. Requires the Department of Social Services to provide certain information about community support services to a parent when a child is left within the home during any DSS investigation.

H. 4840 ARBITRATION AGREEMENTS Rep. McKnight

Provides that certain arbitration clauses within adhesion [pre-printed, *take-it-or-leave-it* form] contracts are unenforceable and severable from these agreements.

H. 4841 JUVENILE STATUS OFFENSES Rep. Govan

Creates a study committee to look at status offenses for juveniles that will prepare a report with findings and recommendations for the General Assembly.

H. 4843 REPOSSESSED VEHICLE REGISTRATION AND LICENSE FEES

Rep. Spires

Provides that owners of seized motor vehicles cannot be charged motor vehicle registration and license fees while not in possession of their repossessed vehicles. They would only be responsible for fees due after the vehicle seizure and after they have regained possession of their seized vehicles.

H. 4844 STATEWIDE ADVISORY REFERENDUM Rep. King

Sets a statewide advisory referendum to be conducted by the State Election Commission during the 2016 General Election. The referendum question is whether the constitutional per diem for General Assembly members should be increased to \$35,000 or to \$50,000.

H. 4846 MASTER-IN-EQUITY Rep. Sandifer

Establishes a separate Master-In-Equity for Anderson County and for Oconee County to replace the current sharing arrangement. This change is based on a population increase in in both counties.

LABOR, COMMERCE AND INDUSTRY

**H.4817 DEPARTMENT OF LABOR, LICENSING, AND REGULATION
REVISIONS Rep. Gambrell**

This bill revises various provisions relating to oversight by the Department of Labor, Licensing, and Regulation. The legislation requires an individual who applies for a bondsman or runner license to provide his business, email, mailing, and residential street address to the department. The legislation requires an applicant for an insurance producer's license to provide an email address to the department. The legislation eliminates affidavit requirements within the requirements for a nonresident to be licensed as an insurance broker. The legislation revises provisions relating to warning stamps on policies of eligible surplus lines insurance, so as to no longer require a broker to write or stamp a warning on the face of an application for eligible surplus lines insurance. The legislation requires an applicant for an insurance adjuster's license to provide an email address to the department. The legislation requires an applicant for a public insurance adjuster's license to provide an email address to the department. The legislation requires an applicant for a motor vehicle physical damage appraiser's license to provide an email address to the department.

H.4819 HOMEOWNERS ASSOCIATION OMBUDSMAN Rep. Ryhal

This bill creates the Office of Homeowners Association Ombudsman in the Department of Consumer Affairs and establishes the qualifications, powers, and duties of the ombudsman. The legislation requires the department to facilitate and maintain a registry of homeowners associations. The legislation establishes procedures for filing and resolving complaints concerning homeowners associations and provides for the collection and use of certain fees.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

S.589 "MUSIC THERAPY PRACTICE ACT" Sen. Lourie

This bill enacts the “Music Therapy Practice Act” regulating the practice of music therapy. Among many things, the bill provides for certain definitions; creates the South Carolina Music Therapy Advisory Group. The bill also prohibits the practice of music therapy without a license; provides criteria for licensure; and to provide for the use of a professional designation.

H.4845 FUNERAL HOMES Rep. King

A funeral home, funeral director, or embalmer may refuse to release a dead human body to the custody of the person or entity who has the legal right to effect a release until any financial obligation related to services provided by the funeral home with respect to the dead human body have been fully satisfied.

WAYS AND MEANS

H.4797 COUNTY TREASURERS PROHIBITED FROM REFUSING TAXPAYERS’ FULL PAYMENT OF MOTOR VEHICLE PROPERTY TAXES DUE TO DELINQUENCY ON ANOTHER PROPERTY Rep. King

This bill provides that a county treasurer may not refuse to accept full payment of property taxes on a motor vehicle or refuse to issue a tax receipt, upon full payment, to a taxpayer on a motor vehicle solely because the taxpayer is delinquent on another property.

H.4815 SALES TAX EXEMPTION FOR FIREARMS Rep. Putnam

This bill revises provisions for sales tax exemptions, so as to exempt the sale of firearms. The legislation eliminates the current exemption for the sale of handguns, rifles, and shotguns that is provided for a limited period each year during the “Second Amendment Weekend” that follows Thanksgiving Day.

H.4821 CONTINUATION OF AGRICULTURAL REAL PROPERTY TAX ASSESSMENT FOLLOWING TRANSFER OF LAND OWNERSHIP Rep. Ott

This bill makes provisions that, if real property classified as agricultural for tax purposes is transferred to another person, and the new owner certifies that the use of the property will not change, then the property must continue to be assessed as agricultural property.

H.4832 INCOME TAX CREDITS FOR PHYSICIANS, ADVANCED PRACTICE NURSES, AND PHYSICIAN ASSISTANTS WHO SERVE AS COMMUNITY-BASED PRECEPTORS Rep. Hicks

This bill provides for income tax credits for each clinical rotation served by a physician, advanced practice nurse, or physician assistant as a community-based preceptor in clinical rotations required by medical schools and other academic programs.

Legislative Update, February 9, 2016

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